



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEP 24 2004

Honorable Noreen Michael
Commissioner of Education
Virgin Islands Department of Education
44-46 Kongens Gade
Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00802

Dear Commissioner Michael:

This is to inform you that we have conditionally approved the Virgin Islands' Eligibility Document Submission for Federal Fiscal Year (FFY) 2004 under Part B of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for a conditional approval is based on our receipt of the following documents submitted by the Virgin Islands to the Office of Special Education Programs (OSEP):

1. The Part B Eligibility Document Submission for FFY 2003 including the Eligibility Documents submitted November 10, 2000, and all subsequent revisions to those Eligibility Documents, and the Submission Statement and other eligibility documentation submitted to OSEP on April 6, 2002, July 2, 2002, September 15, 2002, July 2, 2003 and July 8, 2004;
2. VIDE's bi-monthly data reports under the Special Conditions to the FFY 2003 Part B grant award;
3. The May 19, 2004 letter from the Virgin Islands to OSEP, in which the Virgin Islands assures that it will:
 - a. revise the following documents consistent with OSEP's analysis, as specified in the email correspondence from Maral Taylor to Belinda West O'Neal: i) the February 25, 2004 analysis of VIDE's State Complaint Procedures; ii) the February 26, 2004 analysis of VIDE's Parents' Rights Handbook; iii) the April 1, 2004 analysis of VIDE's Policies and Procedures; iv) the May 10, 2004 analysis of the Interagency Agreement for Part C to B Transition between VIDE and the Virgin Islands Department of Health (VIDH); and v) the May 14, 2004 analysis of the Secondary Transition Interagency Agreement;
 - b. ensure compliance with federal requirements in the interim; and
 - c. send a memorandum to all public agencies to inform them of the changes that impact on public agencies' provision of special education and related services that OSEP has required as a result of its review of the Territory's eligibility documents.

Conditional approval is also based, in part, on the VIDE's commitments as set out in the 2002 Department-wide Compliance Agreement.

In addition, pursuant to 34 C.F.R. §80.12, the Department is imposing Special Conditions on the FFY 2004 grant award with regard to both programmatic and fiscal items. The terms of these Special Conditions and the reasons for imposing them are detailed in Enclosure B and are incorporated by reference. Please note that all of the above documents must be made available for public inspection.

Please note that as part of your Eligibility Document Submission for FFY 2004, the Virgin Islands has made an assurance under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding.

Enclosed is the grant award for funds currently available under the Department of Education FFY 2004 Appropriations Act for the Part B Section 611 (Grants to States). These funds are for use primarily in school year 2003-2004 and are available for obligation by States from July 1, 2004 through September 30, 2005. The amount appropriated for Section 611 in FFY 2004 is \$8,364,335. The funding formula for the Section 611 program is the same as was implemented for FFY 2000. Subject to certain maximum and minimum funding requirements, State allocations are based on the amount that each State received from FFY 1999 funds, the general population in the age range for which each State ensures a free appropriate public education (FAPE) to all children with disabilities, and the number of children living in poverty in the age range for which each State ensures FAPE to all children with disabilities.

Enclosure A provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure A shows funding levels for distribution of Section 611 funds.

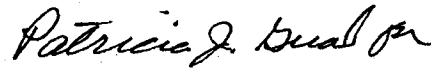
Enclosure B sets out the Special Conditions being placed on the Virgin Islands to remedy the noncompliance with the IDEA and the ongoing fiscal issues. The provisions in these Special Conditions, are crucial to ensuring that children with disabilities in the Virgin Islands are provided access to high-quality instruction in the general curriculum.

Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act." Therefore, by accepting this grant a State is expressly agreeing to a waiver of Eleventh Amendment immunity as a condition of IDEA funding.

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We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephanie Smith Lee".

Stephanie Smith Lee
Director
Office of Special Education Programs

Enclosures

cc: Mrs. Belinda West O'Neal